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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,130	03/05/2001	Dieter Dohring	TURKP0113US	4010

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EXAMINER

FISCHER, JUSTIN R

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,130

Applicant(s)

DOHRING ET AL.

Examiner

Justin R Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindgren (US 4,940,503, of record). Lindgren is directed to a method for producing decorative laminates comprising spreading hard particles, such as aluminum oxide, on a decorative paper impregnated with melamine resin, drying the thus coated decorative paper, applying a covering layer of fiber material or overlay sheet containing melamine resin, and drying the entire assembly (Column 1, Lines 16-22, Column 1, Line 65 – Column 2, Line 35, and Column 2, Lines 56-58).

Regarding claim 7, the overlay sheet of Lindgren, described as being formed of cellulosic fibers impregnated with melamine-formaldehyde resin.

As to claims 5 and 6, Lindgren suggests a particle loading of between 2 and 20 g/m², preferably 3-12 g/m² (Column 1, Line 67 – Column 2, Line 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindgren and further in view of Veneziale, Jr. (US 3,663,341, of record). As previously stated, Lindgren describes the use of a "conventional" overlay in combination with a particle treated decorative sheet in the manufacture of a decorative laminate. Lindgren further states that the overlay paper is commonly alpha cellulosic paper (Column 2, Lines 25-30). While Lindgren fails to expressly suggest the overlay sheet be in the form of a "fiber fleece", it is well known in the decorative lamination industry that top sheets or overlays can have a variety of forms, as shown for example by Veneziale, Jr. (Column 2, Lines 4-6). In this instance, Veneziale, Jr. suggests the use of a variety of fibrous webs or layers, such as mats, rovings, yarns, woven goods, and paper sheet-like layers, as top layers in the manufacture of decorative laminates. It is well recognized that "fiber fleeces" are a common form of fibrous webs or layers and more particularly, they are commonly associated with the above mentioned forms, especially mats. One of ordinary skill in the art at the time of the invention would have found it obvious to form the top layer of Lindgren in any of the well known fibrous assemblies recognized in the decorative lamination industry, there being no conclusive evidence of unexpected results to establish a criticality for the claimed layer form.

With respect to claims 5 and 6, Lindgren suggests a particle loading of between 2 and 20 g/m², preferably 3-12 g/m² (Column 1, Line 67 – Column 2, Line 1).

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindgren. As previously stated, Lindgren suggests that the melamine impregnated

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decorative paper is coated with particles, such as aluminum oxide. In describing the application of aluminum oxide, Lindgren suggests that the average particle size is between 1 and 80 micrometers. While Lindgren fails to expressly suggest the use of particles having a particle size of "about 125 micrometers", one of ordinary skill in the art at the time of the invention would have found such particles obvious in view of the range disclosed by Lindgren. In particular, Lindgren suggests an average particle size of as high as 80 micrometers- one of ordinary skill in the art at the time of the invention would have readily appreciated the inclusion of particles having a particle size of "about 125 micrometers" since the range of Lindgren suggests particle sizes greater than and below 80 micrometers, it being further noted that the original disclosure fails to expressly define the range suggested by "about 125 micrometers". Lastly, one of ordinary skill in the art at the time of the invention would have recognized that the particle size is dependent on the particle loading and the desired/necessary degree of abrasion resistance (function of use of decorative laminate).

Regarding claim 4, Lindgren suggests an embodiment in which the aluminum oxide particles are applied to a decorative paper (decor paper) and a conventional overlay is subsequently disposed over the treated decor paper. In describing the decor paper, Lindgren teaches an exemplary embodiment in which said decor paper has an area density or surface weight of 80 grams per square meter (Column 7, Lines 20-25 and Lines 55-60). While Lindgren fails to define the surface weight after impregnation and coating of the decor paper with the aluminum oxide particles, it is clearly evident that the surface weight would increase due to the impregnating resin and the aluminum

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oxide particles. As such, one of ordinary skill in the art at the time of the invention would have readily appreciated a surface weight for the decor paper of between 140 and 150 grams per square meter, there being no conclusive evidence of unexpected results to establish a criticality for such a surface weight. It is further noted that the surface weight of the decor paper (after impregnation, coating of particles, and drying) is dependent on, among other things, the initial surface weight of the decor paper and the quantity of particles, such that it would have been within the purview of one of ordinary skill in the art at the time of the invention to form a decor paper having a surface weight of between 140 and 150 grams per square meter depending on the specific product being manufactured. Lastly, it is noted that the pre-impregnated surface weight of the decor paper of the claimed invention (Examples 1 and 2) is extremely similar to that detailed by Lindgren and further, the quantity of aluminum oxide particles applied in the claimed invention is extremely similar to that detailed by Lindgren.

Response to Arguments

6. Applicant's arguments filed March 29, 2004 have been fully considered but they are not persuasive. Applicant argues that the inventive process produces a laminate coating via a one step process while that disclosed by Lindgren involves a two-step process. Applicant further contends that the covering layer or overlay sheet does not constitute a fiber fleece and furthermore, while Venezia discloses the use of a mat as the overlay sheet, the reference fails to suggest a fiber fleece. Lastly, applicant argues that Venezia has nothing to do with the problem addressed by Lindgren.

It is initially noted that applicant mentions an Exhibit A and an Exhibit B- neither of these exhibits has been received by the office.

As to the first argument, it is not seen how the inventive process can be considered a one step process while that disclosed by Lindgren is a two-step process. In particular, the method of Lindgren and the inventive process each comprise a first step of applying hard particles to an impregnated paper and subsequently drying the coated paper and a second step of applying a covering layer of fiber material containing melamine resin and subsequently drying the entire assembly. The inclusion of "a covering layer of fiber material" is analogous to the overlay sheet of Lindgren- in each instance, a separate, outermost layer is applied over a particle coated paper layer. Thus, the inventive process and Lindgren are each seen to disclose a two-step process.

Regarding the form of the cover layer, Lindrgen suggests that it can be a conventional overlay sheet (usually a cellulosic fiber paper). This layer is seen to constitute a "covering layer of fiber material" as it is formed of cellulosic fibers. As to the covering layer being a "fiber fleece", it is agreed that Lindgren fails to suggest the overlay be in this form (rejection of claim under 35 USC 102 has been removed). However, as recognized by Veneziale, it is well known to form decorative overlays in a variety of forms, such as mats, rovings, yarns, and woven goods. As stated above, it is well recognized that "fiber fleeces" are a common form of fibrous webs or layers and more particularly, they are commonly associated with the above mentioned forms, especially mats. One of ordinary skill in the art at the time of the invention would have readily appreciated an overlay sheet as a fiber fleece in the process of Lindgren.

Applicant has not provided a conclusive showing of unexpected results to establish a criticality for a fiber fleece as opposed to additional, fibrous webs.

Lastly, applicant is correct in stating that Veneziale has nothing to do with the problems addressed by Lindgren. In this instance, Lindgren discloses the problems associated with applying hard particles to the overlay sheet; the inventive process, in turn, applies the hard particles to the resin impregnated surface layer and specifically states that the overlay sheet is not coated with hard particles in order to eliminate the uneven spreading of the particles. It is emphasized, though, that the method of Lindgren does including an overlay sheet or covering layer of fiber material. One of ordinary skill in the art at the time of the invention would have found it obvious to include any type of overlay sheet that is consistent with the decorative lamination industry. Veneziale has been applied to evidence the wide variety of fibrous forms that are commonly used to make overlay sheets for use in the decorative lamination industry. The "fiber fleece" described by the claimed invention is a particular fibrous arrangement that is extremely similar to the forms expressly described by Veneziale, especially mats. It is unclear how the method of the claimed invention, which uses a "fiber fleece", avoids the separate production of a conventional overlay and reduces costs- the inventive process includes the separate production of "a covering layer of fiber material".

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Justin Fischer

April 19, 2004


JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300